IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

Bail Appl..No. 7357 of 2007()

CRIME NO.434/07 OF KANJIRAPPALLY POLICE STATION

PETITIONER : IST ACCUSED

K.I. SHAJIMON @ SAJIMON
AGED 32 YEARS, S/O. ISMAIL,
KATTUPARAYIL HOUSE,EDAKKUNNAM,
KANJIRAPPALLY.

BY ADV. SRI.JOY GEORGE

RESPONDENTS: COMPLAINANT

---

1. STATE OF KERALA REPRESENTED BY
THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA
ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE
KANJIRAPPALLY POLICE STATION
KANJIRAPPALLY.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 30/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.7357 of 2007

Dated this the 30th day of November, 2007

ORDER

Application for anticipatory bail. Petitioner is the 1st accused. He faces allegations in a crime registered for offences punishable, inter alia, under Section 308 I.P.C. Altogether there are 4 accused persons. 3 of them have already been granted anticipatory bail by the learned Sessions Judge. The petitioner's prayer for anticipatory bail was rejected taking note of the specific overt acts alleged against the petitioner, both in the F.I statement as also in the prompt statement made before the medical officer. The petitioner is alleged to have wielded a dangerous weapon. He is alleged to have inflicted injury on the defacto complainant. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the allegations against the petitioner are totally false and unjustified. The defacto complainant is a notorious person in the locality. Local people had lodged a complaint before the Superintendent of

Police against the misdeeds of the defacto complainant. The petitioner is one of the signatories to such a joint petition. Because the petitioner had taken initiative to lodge such a complaint against the defacto complainant, the defacto complainant is now making false and vexatious allegations against the petitioner. The petitioner may, at any rate, be granted anticipatory bail, it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that all the available indications do satisfactorily point to the complicity of the petitioner. The petitioner may not be granted anticipatory bail. He may be directed to resort to the ordinary and normal course of appearing before the Investigating Officer or the learned Magistrate and then seek regular bail in the ordinary course.

4. I find merit merit in the opposition by the learned Public Prosecutor. I have gone through the order passed by the learned Sessions Judge who has adverted to all relevant aspects. The wound certificate has been perused by me. The averments in the F.I statement are also brought to my notice. I shall

carefully avoid any detailed discussions about the acceptability of the allegations or the credibility of the data collected. Suffice it to say that I find no features available in this case which can justify or warrant the extraordinary equitable discretion under Section 438 Cr.P.C. This, I agree with the learned Public Prosecutor, is an eminently fit case where the petitioner must surrender before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-